REMARKS

Reconsideration and allowance of the subject patent application are respectfully requested.

Claims 1, 14, 15, 30 and 56 were rejected under 35 U.S.C. Section 102(e) as allegedly being "anticipated" by Hickman (U.S. Patent No. 6,059,692). While not acquiescing in this rejection or in the characterizations of Hickman made in the office action, claims 1, 14, 15, 30 and 56 have each been amended to recite sending the generated messages as e-mail messages. Hickman is at least deficient with respect to sending e-mail messages as claimed and thus Hickman cannot anticipate claims 1, 14, 15, 30 and 56.

Claims 5-11, 16-27, 29, 48-55, 57 and 58 were rejected under 35 U.S.C. Section 103(a) as allegedly being made "obvious" by a proposed combination of Hickman and Reed et al. (U.S. Patent No. 5,862,325).

Applicant respectfully submits that the proposed combination of Hickman and Reed et al. '325 would not have made obvious the claimed subject matter.

First, even assuming for the sake of argument that the proposed combination of Hickman and Reed et al. '325 would have been proper (and Applicant does not concede or admit that it would have been), the claimed subject matter would not have resulted from the combining.

For example, each of the independent claims 1, 14, 15, 30 and 56 recites identifying one or more exercisers by applying one or more criteria to stored exercise activity records of each of multiple exercisers, generating messages relating to the identified exercisers, and sending the generated messages as e-mail messages. Hickman discloses displaying an image of a trainer on a screen with an accompanying audio greeting. See col. 7, lines 27-37. To the extent this is viewed as a message (as on page 4 of the office action), there is no disclosure in Hickman that it results from applying criteria to the stored exercise activity records of each of multiple exercisers, nor is there any disclosure that the message involves email. Reed et al. '325 discloses e-mail, but is at least deficient with respect to applying criteria to stored exercise activity records of each of multiple exercisers as claimed. Consequently, even if Reed et al. '325 were combined

with Hickman, the resulting system would still be deficient at least with respect to applying criteria as claimed to generate messages.

Second, Applicant submits that the office action does not articulate a legally sufficient reason to support the assertion that it would have been obvious to modify Hickman based on Reed et al. '325. The office alleges that the proposed modification of Hickman would have been obvious because of "the motivation to coordinate the transfer and content of data, metadata, and instructions between databases in order to simplify, automate, and increase the intelligence of communications." This purported motivation is irrelevant to Hickman. The "message" of Hickman referenced in the office action is an image and accompanying audio apparently obtained from the local exercise machine and does not involve or relate to the communication between databases that Reed et al. '325 purports to simplify, automate and make more intelligent. In addition, the simplifying, automating and increased intelligence to which the Reed et al. '325 patent refers is allegedly obtained by a using an automated communication system different than e-mail and the Background section of Reed et al. '325 discusses various shortcomings of e-mail which the nominal invention of Reed et al. '325 purports to overcome. The purported benefits of a system different than e-mail do not supply a motivation for incorporating e-mail into Hickman.

In summary, no reason legally sufficient basis is set forth in the office action for combining Reed et al. '325 with Hickman and, moreover, even if the combination were made, the claimed subject matter would not result.

Claims 2-4, 12, 16-18 and 27 were rejected under 35 U.S.C. Section 103(a) as allegedly being made "obvious" by a proposed combination of Hickman and Reed et al. (U.S. Patent No. 6,044,205).

Applicant respectfully submits that the proposed combination of Hickman and Reed et al. '205 would not have made obvious the claimed subject matter.

First, even assuming for the sake of argument that the proposed combination of Hickman and Reed et al. '205 would have been proper (and Applicant does not concede or admit that it would have been), the claimed subject matter would not have resulted from the combining.

As noted above, each of the independent claims 1, 14, 15, 30 and 56 recites identifying one or more exercisers by applying one or more criteria to stored exercise activity records of each of multiple exercisers, generating messages relating to the identified exercisers, and sending the generated messages as e-mail messages. Hickman fails to disclose applying criteria to the stored exercise activity records of each of multiple exercisers, nor is there any disclosure that the nominal message involves email. Like Reed et al. '325, Reed et al. '205 is at least deficient with respect to applying criteria to stored exercise activity records of each of multiple exercisers as claimed. Consequently, even if Reed et al. '205 were combined with Hickman, the resulting system would still be deficient at least with respect to applying criteria as claimed to generate messages.

In addition, Reed et al. '205 lacks disclosure of the features of claims 2 and 16 which specify that the one or more criteria applied to the exerciser activity records include when the exercisers performed exercise activities. The office action refers to the following column 10 disclosure of Reed et al. '205:

> Additionally, receipt and storage of the new or updated information can trigger other actions, such as automatically forwarding the information to another consumer, exchanging information with the consumer database 21, sending an automated response to the provider, or sending a message to another software program on the consumer's desktop. Again, this invention provides a means for such actions to be cooperatively controlled by both the provider and the consumer through the use of object methods, which is discussed below.

It is apparent that the column 10 disclosure of Reed et al. '205 contains no disclosure or suggestion whatsoever regarding when exercisers performed exercise activities.

Reed et al. '205 also lacks disclosure of the features of claims 3 and 17 which specify that the one or more criteria applied to the exerciser activity records include whether exercisers have not performed exercise activities for a certain period of time. The office action refers to the following column 38 disclosure of Reed et al. '205:

> The triggering of update methods is typically controlled by a system event in the consumer program 22. Alternatively, it could be triggered by the receipt of an update trigger message from the provider program 12. The timing of the system event is controlled by one or more preferences stored in the consumers global preferences instance (114, FIG. 3). Thus, the system event could happen upon

> startup of the consumer program 22, at a periodic interval during the programs operation, at a specific time of day, etc. The system event could also be dependent on monitoring the system activity level of the consumer computer 2, or on other system or environment variables.

This passage from Reed et al. '205 relates to updating "communication objects", which are "the core data structure transmitted from the provider program to the consumer program to control communications between the provider and consumer." It is apparent that the column 38 disclosure of Reed et al. '205 contains no disclosure or suggestion whatsoever regarding whether exercisers have not performed exercise activities for a certain period of time.

Reed et al. '205 also lacks disclosure of the features of claims 4 and 18 which specify that the one or more criteria applied to the exerciser activity records include physiological data for the exercisers measured during exercise activities. It is apparent that the above-referenced column 10 disclosure of Reed et al. '205 (which is referenced in the office action with respect to claims 4 and 18) contains no disclosure or suggestion whatsoever regarding physiological data of exercisers.

Reed et al. '205 also lacks disclosure of the features of claims 12 and 27 about performing the identifying, the generating and the sending on a periodic basis. It is apparent that the above-referenced column 38 disclosure of Reed et al. '205 (which is referenced in the office action with respect to claims 12 and 27) contains no disclosure or suggestion whatsoever regarding the claimed identifying, generating and sending on a periodic basis.

Second, for reasons similar to those set forth above, Applicant respectfully submits that the office action does not articulate a legally sufficient reason to support the assertion that it would have been obvious to modify Hickman based on Reed et al. '205.

Favorable reconsideration of this application is respectfully requested.

Respectfully submitted,

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